

HOUSE BILL No. 1140

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2-128.

Synopsis: Net metering. Requires the utility regulatory commission (IURC) to impose a monetary penalty on an electric utility that fails to comply with net metering rules. Authorizes the IURC to reduce the penalty if the electric utility achieves compliance with the net metering rules. Requires the IURC to adopt emergency rules amending the rules concerning: (1) cogeneration and alternate energy production facilities; (2) net metering; and (3) customer-generator interconnection standards. Requires that the amended rules must do the following: (1) Allow the interconnection of generating facilities that use certain technologies or have a nameplate capacity of 100 kilowatts or less. (2) Provide that the rates paid by an electric utility for the purchase of energy from certain generating facilities must equal at least 75% of the retail rate charged by the utility for similar retail customers. Voids existing rules that do not comply with the requirements for the amended rules. Requires the IURC to report to the regulatory flexibility committee on the progress in adopting the amended rules.

Effective: Upon passage; July 1, 2009.

Grubb, Koch

January 12, 2009, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE BILL No. 1140

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 8-1-2-128 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2009]: **Sec. 128. (a) As used in this section, "rules" refers to rules**
4 **adopted by the commission concerning net metering, as codified at**
5 **170 IAC 4-4.2.**

6 **(b) As used in this section, "utility" has the meaning set forth in**
7 **170 IAC 4-4.2-1(g). The term includes an investor owned utility.**

8 **(c) Beginning January 1, 2010, and annually thereafter, the**
9 **commission shall determine whether a utility is in compliance with**
10 **the rules. The commission shall make a determination under this**
11 **subsection not later than March 1 of each year.**

12 **(d) If the commission determines that a utility is not in**
13 **compliance with the rules, the commission shall impose a**
14 **reasonable monetary penalty on the utility. In determining the**
15 **amount of the monetary penalty, the commission shall consider the**
16 **efforts made by the utility in attempting to comply with the rules.**

17 **(e) If the commission determines not later than December 31 of**



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a year that a utility against whom a monetary penalty was imposed under subsection (d) has achieved compliance with the rules, the commission may refund all or part of the monetary penalty imposed on the electric utility for that calendar year.

SECTION 2. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) Subject to subsection (g) and not later than July 1, 2009, the commission shall adopt rules to amend the following:

(1) The commission's rules concerning cogeneration and alternate energy production facilities, as codified at 170 IAC 4-4.1.

(2) The commission's rules concerning net metering, as codified at 170 IAC 4-4.2.

(3) The commission's rules concerning customer-generator interconnection standards, as codified at 170 IAC 4-4.3.

The commission shall adopt the rules required by this subsection in the same manner as emergency rules are adopted under IC 4-22-2-37.1.

(c) The rules adopted by the commission under subsection (b)(1) must do the following:

(1) Specify that a qualifying facility includes an alternate energy production facility that produces electricity from any of the following technologies, if the alternate energy production facility otherwise meets the requirements of a qualifying facility:

(A) Methane systems that convert waste products, including animal, food, and plant waste, into electricity.

(B) Methane recovered from landfills.

(C) Wind.

(D) Solar photovoltaic cells and panels.

(E) Clean coal and energy projects (as defined in IC 8-1-8.8-2).

(F) Dedicated crops grown for energy production.

(G) Energy from waste to energy facilities producing steam not used for the production of electricity.

(2) Provide that the rates paid by a generating or nongenerating electric utility for the purchase of energy from a qualifying facility must equal at least seventy-five percent (75%) of the retail rate charged by the electric utility to:

(A) the qualifying facility for electricity supplied to the qualifying facility (other than back-up power, maintenance

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power, or interruptible power), if the qualifying facility is a customer of the electric utility; or

(B) another retail customer with similar load characteristics as the qualifying facility, if the qualifying facility is not a customer of the electric utility.

(d) The rules adopted by the commission under subsection (b)(2) must do the following:

(1) Allow a net metering customer to interconnect a net metering facility with a nameplate capacity of one hundred (100) kilowatts or less to a distribution facility of an electric utility.

(2) Provide that a facility that generates electricity through any of the following technologies may qualify as a net metering facility under the commission's net metering rules, if the facility otherwise qualifies as a net metering facility under the commission's net metering rules:

(A) Methane systems that convert waste products, including animal, food, and plant waste, into electricity.

(B) Methane recovered from landfills.

(C) Wind.

(D) Solar photovoltaic cells and panels.

(E) Clean coal and energy projects (as defined in IC 8-1-8.8-2).

(F) Dedicated crops grown for energy production.

(G) Energy from waste to energy facilities producing steam not used for the production of electricity.

(3) Provide that the rates paid by a generating or nongenerating electric utility for the purchase of energy from a net metering facility must equal at least seventy-five percent (75%) of the retail rate charged by the electric utility to:

(A) the net metering facility for electricity supplied to the net metering facility (other than back-up power, maintenance power, or interruptible power), if the net metering facility is a customer of the electric utility; or

(B) another retail customer with similar load characteristics as the net metering facility, if the net metering facility is not a customer of the electric utility.

(e) The rules adopted by the commission under subsection (b)(3) must do the following:

(1) Specify that a customer-generator facility with a nameplate capacity of one hundred (100) kilowatts or less qualifies for an electric utility's Level 1 review procedure.

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- 1 (2) Impose any additional safety standards the commission
 2 determines are necessary.
- 3 (f) Rules adopted under this SECTION expire on the earlier of:
 4 (1) the date the rules are adopted by the commission under
 5 IC 4-22-2-24 through IC 4-22-2-36; or
 6 (2) January 1, 2010.
- 7 (g) Not later than June 1, 2009, the commission shall do the
 8 following:
 9 (1) Evaluate the rules codified at 170 IAC 4-4.1 for
 10 compliance with subsection (c). To the extent that any rules
 11 codified at 170 IAC 4-4.1 do not meet the requirements set
 12 forth in subsection (c), the rules are void.
 13 (2) Evaluate the rules codified at 170 IAC 4-4.2 for
 14 compliance with subsection (d). To the extent that any rules
 15 codified at 170 IAC 4-4.2 do not meet the requirements set
 16 forth in subsection (d), the rules are void.
 17 (3) Evaluate the rules codified at 170 IAC 4-4.3 for
 18 compliance with subsection (e). To the extent that any rules
 19 codified at 170 IAC 4-4.3 do not meet the requirements set
 20 forth in subsection (e), the rules are void.
- 21 Not later than June 15, 2009, the commission shall notify the
 22 publisher of the Indiana Administrative Code and Indiana Register
 23 of any rules that are void under this subsection. The publisher shall
 24 remove the rules that are void under this subsection from the
 25 Indiana Administrative Code.
- 26 (h) Not later than November 1, 2009, the commission shall
 27 report to the regulatory flexibility committee established by
 28 IC 8-1-2.6-4 on the commission's progress in finally adopting,
 29 under IC 4-22-2-24 through IC 4-22-2-36, the emergency rules
 30 initially adopted by the commission under subsection (b).
- 31 (i) This SECTION expires January 1, 2011.
- 32 SECTION 3. An emergency is declared for this act.

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